

**CALIFORNIA COASTAL COMMISSION**

NORTH CENTRAL COAST DISTRICT  
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Staff:	JAS-SF
Staff Report:	Sept. 26, 2000
Hearing Date:	Oct. 12, 2000
Commission Action:	

**STAFF REPORT: APPEAL**  
**SUBSTANTIAL ISSUE DETERMINATION**  
**AND DE NOVO HEARING**

<b>APPEAL NO.:</b>	<b>A-2-SMC-00-028</b>
<b>APPLICANT:</b>	<b>Steve Blank</b>
<b>AGENT:</b>	<b>John Wade</b>
<b>LOCAL GOVERNMENT:</b>	<b>San Mateo County</b>
<b>LOCAL DECISION:</b>	Approval with Conditions
<b>PROJECT LOCATION:</b>	4100 Cabrillo Highway, Pescadero, San Mateo County, APN 089-221-090
<b>PROJECT DESCRIPTION:</b>	Construction of a three-story, 15,000-square-foot single-family residence (6,000-square-foot underground) with outlying bedrooms and underground tunnels, a swimming pool, a 2,500-square foot equipment barn, a 2,700-square-foot horse stable, and a replacement of a farm labor housing unit with a 1,250-square foot farm labor housing unit on a legal 261-acre parcel.
<b>APPELLANTS:</b>	Commissioners Sara Wan and Dave Potter, California Coastal Commission
<b>SUBSTANTIVE FILE DOCUMENTS:</b>	San Mateo County PLN 1999-00960 (Blank); San Mateo County Local Coastal Program
<b>STAFF RECOMMENDATION:</b>	Substantial Issue, Approval with Conditions

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### **Exhibit**

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- 4 Letter from Steve Blank stating that no helicopters or other aircraft would be used on the property for the life of the coastal development permit
- 5 Constraints Analysis and Visual Assessment
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## **LIST OF CORRESPONDENCE**

September 9, 2000 Letter from Kevin and Cheryl Williams to California Coastal Commission  
September 11, 2000 Letter from Edward Berkowitz to Commissioners

## **SUMMARY OF STAFF RECOMMENDATION**

### **SUBSTANTIAL ISSUE**

The staff recommends that the Commission determine that a substantial issue exists with respect to the grounds on which the appeal has been filed, and that the Commission hold a de novo hearing, because the appellants have raised a substantial issue with the local government's action and its consistency with the certified LCP.

San Mateo County (the County) approved with conditions a coastal permit for construction of a three-story, 15,000-square-foot single-family residence (6,000-square-foot underground) with outlying bedrooms and underground tunnels, a swimming pool, a 2,500-square foot equipment barn, a 2,700-square-foot horse stable, and a 1,250-square-foot farm labor housing on a legal 261-acre parcel. The county-approved project also includes the planting of three acres of raspberries and peas, pasturing horses, and habitat restoration. The appellants contend that the project is not consistent with the visual resources policies of the County's LCP.

Commission staff analysis indicates that the appeal raises significant questions regarding whether the residence, as approved by the County, would be sited and designed to protect coastal views in the manner required by the policies of the certified LCP. As approved by the County, the residential dwelling would be visible from State Highway 1 (Cabrillo Highway) and Año Nuevo State Reserve in an area that is now largely undeveloped. Commission staff recommends that the Commission find that the project, as approved by the County, raises a substantial issue with regard to conformance with the visual resources policies of the County's LCP.

The Motion to adopt the Staff Recommendation of Substantial Issue is found in Section 3.0.

### **COASTAL PERMIT APPLICATION: APPROVAL**

The staff recommends that the Commission approve the coastal development permit for the proposed project with conditions. The recommended conditions would result in the redesign of the County-approved project in such way as to make the proposed dwelling not visible from Highway 1, Año Nuevo State Reserve, and other public places, and would allow the project to comply with the visual resources policies of the LCP.

The Motion to adopt the Staff Recommendation of Approval is found in Section 1.0.

## **STAFF NOTES**

Section 30625(b) of the Coastal Act requires the Commission to hear an appeal unless the Commission determines that no substantial issue is raised by the appeal. If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have three minutes per side to address whether the appeal raises a substantial issue. It takes

a majority of Commissioners present to find that no substantial issue is raised. Unless it is determined that there is no substantial issue, the Commission will continue with a full public hearing on the merits of the project. If the Commission were to conduct a de novo hearing on the appeal, the applicable test for the Commission to consider would be whether the development is in conformity with the certified LCP and public access and public recreation policies of the Coastal Act.

The only persons qualified to testify before the Commission on the substantial issue question are the applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing.

## **PART 1 - SUBSTANTIAL ISSUE**

### **1.0 STAFF RECOMMENDATION ON SUBSTANTIAL ISSUE**

Pursuant to Section 30603(b) of the Coastal Act and as discussed in the findings below, the staff recommends that the Commission determine that substantial issue exists with respect to the grounds on which the appeals have been filed. The proper motion is:

#### **Motion**

*I move that the Commission determine that Appeal No. A-2-SMC-00-028 raises NO substantial issue as to conformity with the certified Local Coastal Program with respect to the grounds on which an appeal has been filed pursuant to Section 30603 of the Coastal Act.*

Staff recommends a NO vote. A No vote would result in the de novo consideration by the Commission of the appeal and in the adoption of the following resolution and findings. Approval of the motion would mean that the County permit is final. To pass the motion, a majority vote of Commissioners present is required.

### **2.0 FINDINGS AND DECLARATIONS**

The Commission hereby finds and declares:

#### **2.1 Local Government Action**

On July 26, 2000, the San Mateo County Planning Commission approved with conditions Coastal Development Permit (CDP) PLN 1999-00960 (Blank/Wade) for construction of a three-story, 15,000-square-foot single-family residence and associated development as further described in Section 2.5 below. The approval includes 57 special conditions, as listed in Exhibit 1 (San Mateo County 2000b). Conditions 18, 20, 21, and 22 address visual resources. Condition 18 requires that the applicant submit a screening plan for approval by the Planning Director and that all screening be installed prior to completion of construction. The purpose of the screening plan is to screen the view of the proposed development from Highway 1 and Año Nuevo State

Reserve. The plan would include viewpoint elevations showing an earth berm with additional planting screening 50 to 75 percent of the proposed residence from Cabrillo Highway and Año Nuevo State Reserve at the end of construction and 100 percent screening at tree maturity. Condition 20 requires the applicant to submit color and material samples for approval by the Planning Director, and that the colors and materials blend in with the surrounding soil and vegetative color of the site. Condition 21 requires that the applicant submit a lighting plan, which minimizes visibility of lighting, for approval by the Planning Director. Condition 22 requires that the applicant record a deed restriction on the property regarding maintenance of screening vegetation, color of exterior materials, and minimization of lighting. The local appeal period ended on August 9, 2000 and there were no local appeals.

## **2.2 Appellants' Contentions**

Commissioners Sara Wan and Dave Potter appealed the County of San Mateo's decision to approve the project. The appellants contend that the project is not consistent with the visual resources policies of the County's LCP. The appellants' contentions are summarized below, and the full text of the contentions is also included as Exhibit 2.

The appellants assert that the subject development, which is sited near the top of a hill within the scenic corridor of State Highway 1 and is visible from a State Scenic Road (State Highway 1) and Año Nuevo State Reserve, is inconsistent with San Mateo County Land Use Plan (LUP) visual resources policies 8.5, 8.18a, 18b, and 8.20. These policies include requirements that new development:

- be located where it is least visible from State and County Scenic Roads, is least likely to significantly impact views from public viewpoints, and is consistent with all other LCP requirements, but preserve the visual and open space qualities overall;
- blend with and be subordinate to the environment and character of the area and be as unobtrusive as possible through siting, design, layout, size, height, shape, materials, colors, access, and landscaping;
- be located where screening minimizes the visibility of development from public roads; and
- be related in size and scale to adjacent buildings and landforms.

## **2.3 Appeal Process**

After certification of Local Coastal Programs (LCPs), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits (Coastal Act Section 30603.)

Section 30603 states that an action taken by a local government on a coastal development permit application may be appealed to the Commission for certain kinds of developments, including developments located within certain geographic appeal areas, such as those located between the sea and the first public road paralleling the sea or within three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff, or those located in a sensitive coastal resource area. Furthermore, developments approved by counties may be appealed if they are not designated the "principal permitted use" under the certified LCP.

Finally, developments that constitute major public works or major energy facilities may be appealed, whether approved or denied by the city or county. The grounds for an appeal of a County approval that is not located between the sea and the first public road paralleling the sea are limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program.

The project is appealable to the California Coastal Commission because it is not a principally permitted use. A single-family house is not a principally permitted use within the Planned Agricultural District (PAD), in which the project is sited, of San Mateo County's LCP.

## **2.4 Filing of Appeal**

The Commission received the Notice of Final Action for the County's approval of the subject development on August 11, 2000. In accordance with the Commission's regulations, the 10-working-day appeal period ran from August 14 through August 25 (14 CCR Section 13110). The appellants (Commissioners Sara Wan and Dave Potter) submitted their appeal to the Commission office on August 21, 2000 (see Exhibit 2). On September 13, 2000, the Commission opened a hearing on the appeal. The Commission continued the hearing, suspending final action on the appeal pending discussions between the applicant and staff.

## **2.5 Project Location and Site Description**

The project approved by the County is located inland of State Highway Route 1 (Cabrillo Highway), about six miles south of Pescadero, in the unincorporated portion of San Mateo County, California (Figure 1). State Park lands surround the property on the east, north, and west, and State Coastal Conservancy lands are on the south side. The proposed building site of the residence is approximately three miles from Año Nuevo Point and 2,400 feet from the closest portion of Highway 1 (Figure 2). The southern portion of the property is within the Highway 1 State Scenic Corridor, as designated in the San Mateo General Plan, with the building site of the residence just outside the boundary and all other structures well outside the boundary. The 261-acre property, known as K & S Ranch, is an irregular diamond shape, roughly one mile long by a half mile wide. Existing uses on the property include a caretaker's cottage, farm buildings, dirt/gravel roads, agricultural fields, and undeveloped land (Biotic Resources Group 2000). None of the buildings are visible from Highway 1 or Año Nuevo State Reserve.

The property is part of the Cascade Valley Ranch. A Natural Resource and Agricultural Conservation Easement, held by the Coastal Conservancy, applies to the Cascade Valley Ranch, and therefore the K & S Ranch (Coastal Conservancy 1999). The purpose of the easement is to "protect the property's natural habitat, natural resources, and scenic values, and to conserve the property's open space character for agricultural use." It mentions "limited residential use" as well as habitat preservation, agriculture, and ranching among the uses and practices allowed under the easement. It appears that the approved project is generally consistent with the terms of the easement, in that the project includes a single-family dwelling and agricultural uses. However, the Coastal Conservancy, as the easement-holder, rather than the Coastal Commission, is responsible for determining consistency of land uses with the easement.

The property is designated in the County's LUP as Agriculture and is zoned Planned Agricultural District/Coastal Development District (PAD/CD). The proposed single-family dwelling complies with the PAD zoning of the lands within the coastal zone, which allows one density credit or one residential unit on the property. For residences, the PAD zone allows a maximum building height of 36 feet, which is slightly higher than the 35-foot, one-inch proposed roofline height of the county-approved dwelling. Setbacks for county-approved residence, farm labor housing, equipment barn, and stable are well-within zoning standards for the PAD. A single-family residence is not allowable as a principally permitted structure within the PAD, but may be allowed with the issuance of a Planned Agricultural Permit. The County determined that the project conforms with the substantive criteria for issuance of a PAD permit and the county's stable regulations (Section 6358.0 and 6359.0 PAD/CD of San Mateo County's Zoning Regulations and Section 7700 of the Stable Ordinance). The substantive criteria address protection of agricultural uses on land in the PAD. The criteria includes minimizing encroachment on land suitable for agricultural use, clustering development, availability of water supply, preventing or minimizing division or conversion of agricultural land, and retention of agricultural land within public recreation facilities. The stable regulations address building code requirements, maintenance of stables, and drainage plans.

The property has two flat to gently sloping elevated marine terraces cut by local streams. The broad lower terrace, with an elevation of 40 to 120 feet extends one mile west from the property to the ocean. This terrace includes Highway 1, farmland and parkland. The eastern edge of the lower terrace forms the western edge of the K and S Ranch. The upper terrace, with an elevation of 255 to 320 feet is deeply cut by local streams coming out of the Santa Cruz Mountains. The upper terrace is about 1/4 mile wide and ends in the steep slopes of the Santa Cruz Mountains, rising up to over 1,500 feet immediately behind the ranch.

The elevation of the parcel ranges from approximately 110 feet above mean sea level (msl) along the southernmost portion of the property near Highway 1 and 380 feet above msl in the northern and western portions of the site. The proposed residential building site is on a flat terrace at approximately 300 feet above msl. The slopes below the county-approved residence range from 23 to 40 percent (Zinn Geology 1999).

The parcel is within the central region of the Coast Ranges Geomorphic Province, and is underlain by marine and continental sedimentary rock units that have been deposited, folded, faulted, and uplifted to form the Santa Cruz Mountains (Romig Consulting Engineers 1999). Figure 5 presents the regional quaternary geology of the site. The property is within a state Earthquake Fault Zone (California Division of Mines and Geology 1982, as cited in Zinn Geology 1999). The active San Gregorio Fault lies along the break between the upper terrace and the mountains, approximately 300 to 500 feet northeast of the proposed residential development (Zinn Geology 1999). The parcel is within an active seismic area and may be subject to strong ground shaking. Landslide scars are found along the northern and eastern property boundaries. Although none of the proposed development is on a landslide deposit, surficial creep instabilities may affect the site, including shallow debris flows and slope creep, particularly near the auxiliary bedrooms (attached by tunnels) (Zinn Geology 1999 and 2000a).



Soils at the site are primarily Lobitos loam in the northern portion of the property, Tierra loam in the southern portion, Santa Lucia loam in the southeastern portion, Lockwood loam soils along the drainages, and Colma loam in the steep portions of the southern-central portion of the property. The Lobitos loams range from slight erosion hazard to very high. The Santa Lucia soils pose moderate to very high erosion potential. The erosion hazard of the Lockwood soils is slight. The Colma loams have a high to very high erosion potential (US Department of Agriculture 1961). The Lockwood soils and a small adjacent area of Botella loam are Class II or Class III (capable of growing artichokes or brussel sprouts) soils, which are considered prime agricultural soils.

The parcel includes diverse habitat types (Figure 3). The steep 100 to 160-foot high slopes between the lower and upper terrace are covered with approximately 25 acres of mixed evergreen forest on the north facing slopes, approximately 42 acres of coastal scrub, and three acres of oak woodland on the south facing slopes. The mixed evergreen forest is dominated by Douglas fir. Deluca Valley runs east through the center of the ranch and has about 26 acres of fallow agricultural fields. Along the unnamed creek is approximately eight acres of riparian woodland dominated by willow (*Salix* sp.) and alder (*Alnus rubra*). At the east end of the valley is the 8.6-acre foot "Potato Patch" reservoir, which was apparently used for stock watering. There are two areas of wet meadow, one at each end of the valley, totaling approximately seven acres. The flatter areas of the upper terrace are dominated by 168 acres of non-native grasses, particularly flax left over from farming during the 1930's and 40's. Eight acres of native grasses are found, mostly on the terrace northeast of the valley (Wade 2000a).

These habitats support many plant and wildlife species, including some special status species. No special status plant species were observed at the site. Special status wildlife species that occur in nearby habitat include California red-legged frog, a federally-listed threatened species; western pond turtle, a federal species of concern; and San Francisco garter snake, a federally- and state listed species. Loggerhead shrike may nest at the site (Biotic Resources Group and Dana Bland & Associates 2000). One California red-legged frog was observed in the man-made pond (Potato Patch Reservoir) on the eastern portion of the property (Wade 2000b).

Records at the California Historical Resources Information Center at Sonoma State University indicate that the entire parcel was previously studied and no prehistoric cultural materials, such as midden, shells, hearths, fire-affected rock, artifacts, or other features were located on the site (chavez 1982 [S-4937] and ACRS 1979 [S-3104]. No further archaeological surveys were recommended (San Mateo County 2000a).

## **2.6 Project Description**

The project approved by the County consists of construction of a three-story, 15,000-square-foot single-family residence (6,000 square feet underground) with outlying bedrooms and underground tunnels, a 2,500-square-foot equipment barn, a 2,700-square-foot horse stable<sup>1</sup>, and a 1,250 square-foot farm labor housing unit on a legal 261-acre parcel (Exhibit 3). The existing farm labor housing would be replaced with similar housing of approximately 1,250 square feet in the same location. The more precise area of the living areas and basement is shown in Table 1, amounting to 15,780 square feet of residential development<sup>2</sup>. The following areas are additional developed areas that are not included in the description above: swimming pool (1,100 square feet), terraces (7,546 square feet), driveway and parking, including the existing gravel driveway at the base of the hill to the garage door (8,064 square feet), and walkways (956 square feet) (Sagan-Pichota Architecture 2000a). Therefore, the gross square footage of developed area is 39,895, not including three acres to be planted in raspberries and peas, areas where horses are pastured, and habitat restoration areas.

The tallest structure proposed is the residence. At its highest elevation from natural grade, the roofline of the county approved residence would be approximately 35-foot, one inch<sup>3</sup> in height (Exhibit 3). A water line and septic system are proposed on-site, and an existing domestic well in the southeast corner of the property would be used. The new septic system would be located to the south of the proposed residence on non-prime soils. None of the proposed development, except the farm labor housing would be on prime soils. The existing farm labor housing is on prime soils and it would be replaced in the same location. Access to the site is provided by an existing private access road from Highway 1 that serves the farm labor housing. The road would be extended 400 feet to access the county-approved residential development. An existing dirt fire road extends all the way to the approved residential site. The county-approved project included installation of turf block and grass seed on the fire road to reduce visibility from Highway 1 and Año Nuevo State Reserve while still providing an emergency access route for fire vehicles. The approved residence and other structures would use earth tones, such as dark gray walls and a dark brown roof. All of the structures, including the residence, are designed to resemble barns.

## **2.7 Substantial Issue Analysis**

Section 30603(b)(1) of the Coastal Act states:

*The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.*

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<sup>1</sup> At County's request the stable was moved to a hillside, necessitating an increase from 2700 square feet to 3,200 square feet.

<sup>2</sup> The 15,780 square feet reflects a refinement of the estimate in the County's reports, but not a change, to the project description.

<sup>3</sup> The height has been more precisely estimated at 35-foot one inch. This is also a refinement, not a change to the project description.

**Table 1**  
**K & S Ranch**  
**Summary of Areas**

	<b>Room Number</b>	<b>Room Name</b>	<b>Square Feet</b>	<b>Square Feet</b>
<b>Sleeping Barn and Bedrooms</b>	B11	bedroom 1	329.61	
	B12	bathroom	63.25	
	B21	bedroom 2	432.44	
	B22	bathroom	88	
	B31	bedroom 3	291.85	
	B32	bath	95.12	
	B41	bedroom 4	291.48	
	B42	bath	96.18	
	B50	bedroom 5	115.83	
	B51	sitting area	339.74	
	B52	bath	59.73	
	S202	hallway	246.75	
	S203	family room	265.23	
	S204	bathrm	57.21	
	S205	laundry	66.91	
	S206	master bedroom	496.3	
	S207	master bath	176.14	
	S208	closet	87.67	
	S303	bedroom	219.92	
	S304	bathroom	176.77	
	S305	bedroom	219.73	
<b>Subtotal</b>				<b>4215.86</b>
<b>Living Barn</b>				
	109	t.v. room	454.12	
	110	bathrm	61.83	
	203	living room	1,039.50	
	204	dining room	483	
	205	corridor	267.97	
	207	closet	47.7	
	208	wc	67.17	
	209	kitchen	311.97	
	210	breakfast nook	190.94	
	211	pantry	49.94	
	301	office	100.04	
	302	connector	79.28	
	304	loft	629.21	
	305	sleeping porch	192.3	
	306	bathrm	58.73	
<b>Subtotal</b>				<b>4,033.70</b>

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<b>Library</b>	L201	stairs	66.65
	L202	library	392.56
	L203	office	222.44
	L204	vest.	54
	L205	bathrm	49.98
Subtotal			785.63
<b>Pool House</b>	P202	bath	75.01
	P203	changing	46.03
	P204	laundry	74.58
Subtotal			195.62
<b>Sum of Living Areas</b>			<b>9,230.81</b>
<b>Basements required by Seismic Structure and Unconditioned Circulation Space</b>	104	elec.	84.67
	105	trash	83.34
	106	stairs	87.18
	107	corridor	126.97
	108	garage	1,355.04
	L102	structural space	704.93
	P101	equipment room	737.85
	S102	stairs	136.27
	S103	struct. space	357.15
	B101	tunnel	932.69
	B103	tunnel	1,310.78
	212	atrium	632.65
Subtotal			<b>6549.52</b>
<b>Total All Areas</b>			<b>15,780.33</b>
Source: Sagan-Pichota Architecture 2000c.			

The two contentions raised in the appeal present potentially valid grounds for appeal in that they allege the projects' inconsistency with policies of the certified LCP.

Public Resources Code section 30625(b) states that the Commission shall hear an appeal unless it determines:

*With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.*

The term substantial issue is not defined in the Coastal Act. The Commission's regulations simply indicate that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Cal. Code Regs., tit. 14, section 13115(b).) In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP and with the public access policies of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretation of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

Even where the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development as approved by the County presents a substantial issue.

### **2.7.1 Allegations that Raise Substantial Issue**

<p><b>The Commission finds that the appeal raises a <u>substantial issue</u> with respect to conformance of the approved project with the visual and scenic resource policies of the San Mateo County certified LCP.</b></p>
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The appellants assert that the subject development, which would be sited near the scenic corridor of State Highway 1 and would be visible from a State Scenic Road (State Highway 1) and Año

Nuevo State Reserve, is inconsistent with San Mateo County LUP visual resources policies 8.5, 8.18a, 8.18b, and 8.20. These policies are presented below.

The development site approved by the County is on the top of a southwest-facing coastal terrace hillside east of Highway 1, in an unincorporated area of south San Mateo County. This portion of the coast is very sparsely developed, with grazing and row crops occurring on the coastal shelf surrounded by forested lands. The coastal mountains provide a dramatic backdrop to the coastline, rising to elevations of about 1,450 feet. The mountains have dense stands of conifers and shrubs in the drainages and on the upper slopes, but are otherwise covered with grasses that are green in the winter and spring and a golden color in the summer. It is one of the most spectacular, scenic coastal areas in San Mateo County. The California Department of Parks and Recreation's brochure for Año Nuevo State Reserve describes the reserve and vicinity as follows:

*Fifty-five miles south of San Francisco and the Golden Gate, a low, rocky, windswept point juts out into the Pacific Ocean. The Spanish maritime explorer Sebastian Vizcaino named it for the day on which he sighted it in 1603 - Punta de Año Nuevo - New Year's Point.*

*Today, the point remains much as Vizcaino saw it from his passing ship - lonely, undeveloped, wild. Elephant seals, sea lions, and other marine mammals come ashore to rest, mate, and give birth in the sand dunes or on the beaches and offshore islands. It is a unique and unforgettable natural spectacle that hundreds of thousands of people come to witness each year.[Emphasis added]*

There are very few structures visible from Highway 1 and the State Reserve within several miles of the site. Developments to the north, starting just north of Gazos Creek, are the Vlastic Mushroom Farm, a gas station and restaurant, and the Coastanoa resort. To the south are the Cascade Ranch farm buildings, a ranch house, and a flower operation on the west side. Further south is a berry farm and the Boling house. Most of these developments are either on the lower coastal terrace, screened from view, and/or directly associated with agriculture. Therefore, the K & S Ranch residence would be the first very large residence not associated with commercial agriculture in the immediate area that would be visible from the highway, and would be visible from distant views at Año Nuevo State Reserve.

The elevation of the parcel ranges from approximately 110 feet above mean sea level (msl) along the southernmost portion of the property near Highway 1 and 380 feet above msl in the northern and western portions of the site. The proposed residential building site is on a flat terrace at approximately 300 feet above msl. Much of the property is located within the Highway 1 and Año Nuevo State Reserve viewshed, with the proposed residential development visible from several locations.

In its County-approved location on top of the hill, and given its large size and three-story height, the approved development would be visible to vehicles traveling south and north on Highway 1. The main residence, including sleeping barn, living barn, and pool house, extends approximately 184 feet across (does not include mostly below ground portion between the living barn and pool

house) facing southeast towards Highway 1 and Año Nuevo State Reserve. From end to end the length of the five outer bedrooms facing southwest towards Highway 1 and Año Nuevo State Reserve is approximately 213 feet, including open space in between the bedroom buildings. Because these bedrooms are actually separate structures rather than part of the main development, the large, sprawling design maximizes the visual impact.

The approved house site would also be visible from trails in Año Nuevo State Reserve. State Reserves are the highest level of protection classification of the California State Park System. The Public Resources Code describes State Reserves as “consisting of areas of embracing outstanding natural and scenic characteristics of statewide significance” (California Department of Parks and Recreation 2000). In addition, Año Nuevo Point is designated as a National Natural Scenic Landmark. Año Nuevo State Reserve currently is visited by over 200,000 people from around the world annually with more expected in the future (California Department of Parks and Recreation 2000, Enge 1999). Visitors to the Reserve come to see the thousands of elephant seals that breed there as well as to enjoy pristine coastal views looking inland that are not possible from many locations along the coast (Enge 1999). The proposed site is visible from dunes near the main public trail in the Reserve. It is also visible from the Cascade Creek trail and the Cascade-Whitehouse Creek trail to the east. The project is visible for a short distance along Chalks Road to the south, just east of the Cascade Ranch buildings. Although this road is not currently a public road, it may be acquired at some time in the future and used for a trail. According to California Department of Parks and Recreation, from the Reserve “visitors view pristine coastal mountains with no current intrusive visual impacts” (California Department of Parks and Recreation 2000).

As discussed further below, the Commission finds that the project as approved by the County raises a substantial issue with regard to consistency with a number of LCP policies regarding protection of visual and scenic resources.

***LUP Policy 8.5: Development Where Visible from a Scenic Road and Public Viewpoint When Alternatives Exist***

A substantial issue exists concerning the conformity of the proposed development with LUP Policy 8.5, which states:

*Require that new development be located on a portion of a parcel where the development (1) is least visible from State and County Scenic Roads, (2) is least likely to significantly impact views from public viewpoints, and (3) is consistent with all other LCP requirements, best preserves the visual and open space qualities of the parcel overall. Where conflicts in complying with this requirement occur, resolve them in a manner which on balance most protects significant coastal resources on the parcel, consistent with Coastal Act Section 30007.5.*

*Public viewpoints include, but are not limited to, coastal roads, roadside rests and vista points, recreation areas, trails, coastal accessways, and beaches.*

The county-approved residence would be sited on one of the higher plateaus on the property. As sited at this location on the property, the proposed development would be visible from Highway 1, which is a state scenic road, and from Año Nuevo State Reserve. The property, which

comprises 261 acres, includes ridge lines and existing, mature trees and other vegetation that block views of some portions of the property from the highway and the reserve. Consequently, it appears that the property contains potential alternative building sites that are less visible from the highway and reserve. Based on a constraints analysis and visibility survey conducted by the applicant, the County concluded that the residence is proposed for the least visible location, but provided no explanation of how they reached that conclusion. The residential development would be sited at the top of a terrace and would be visible from Highway 1 and Año Nuevo State Reserve. Therefore, there may be a less visible site. Because the approved development would be visible and the County's determination that the approved development would be located on the portion of the property that is least visible is not convincing, the Commission finds that the appeal raises a substantial issue in terms of the approved project's conformance with LCP Policy 8.5.

***LUP Policy 8.18: Project Not Designed to be Subordinate to the Environment or to Minimize the Visibility of Development from Scenic Roads and Other Public Viewpoints***

LUP Policy 8.18a states:

- a. Require that development (1) blend with and be subordinate to the environment and the character of the area where located, and (2) be as unobtrusive as possible and not detract from the natural, open space or visual qualities of the area, including but not limited to siting, design, layout, size, height, shape, materials, colors, access and landscaping. The colors of exterior materials shall harmonize with the predominant earth and vegetative colors of the site. Materials and colors shall absorb light and minimize reflection. Exterior lighting shall be limited to the minimum necessary for safety. All lighting, exterior and interior, must be placed, designed and shielded so as to confine direct rays to the parcel where the lighting is located.*

*Except for the requirement to minimize reflection, agricultural development shall be exempt from this provision. Greenhouse development shall be designed to minimize visual obtrusiveness and avoid detracting from the natural characteristics of the site.*

LUP Policy 8.18b states:

*Require screening to minimize the visibility of development from scenic roads and other public viewpoints. Screening shall be by vegetation or other materials which are native to the area or blend with the natural environment and character of the site.*

The county-approved residence is a 15,000 square foot, three-story residential development that is approximately 35 feet high. A smaller house or one with a lower profile would be less obtrusive. Existing vegetation and landforms would not screen the development as approved by the County. The County's conditions require that landscaping be designed to screen 50 to 75 percent of the structures from Highway 1 and trails in Año Nuevo State Reserve upon completion of construction, and 100 percent of the residence at tree maturity (approximately three to five years). Four-foot berms, which were included in the county-approved project, would only partially hide the residential structures. Therefore, this screening relies on trees to fully screen the residence. Trees may develop diseases that kill or weaken them, revealing structures placed behind them. The Commission finds that a substantial issue exists concerning the conformity of the County-approved development with LUP Policy 8.18b because in its location at the top of a fronted by a field in a virtually undeveloped scenic area, additional screening



could be added to minimize the visibility of the development from Highway 1 and Año Nuevo State Reserve.

***LUP Policy 8.20: Structure Does Not Relate in Size and Scale to Adjacent Buildings or Landforms***

LUP Policy 8.20 states:

*Relate structures in size and scale to adjacent buildings and landforms.*

Policy 8.20 requires development to be related in size and scale to adjacent buildings and landforms. There are very few structures visible from Highway 1 and the State Reserve within several miles of the site. There are very few structures visible from Highway 1 and the State Reserve within several miles of the site. Developments to the north, starting just north of Gazos Creek, are the Vlastic Mushroom Farm, a gas station and restaurant, and the Coastanoa resort. To the south is the Cascade Ranch farm buildings, a ranch house, and a flower operation on the west side. Further south is a berry farm and the Boling house. Most of these developments are either on the lower coastal terrace, screened from view, and/or directly associated with agriculture. The Coastanoa campsite is partially hidden behind a berm, but the white canvas roofs and main buildings make it fairly visible. The 6,000 square-foot Boling residence is inland (to the southeast) of K & S Ranch at APN 057-061-17 on 14 acres. The Boling house is within the view corridor of the highway, and its visibility is tempered somewhat by its greater inland distance (approximately 0.6 mile from Highway 1) and relatively narrower view corridor between the house and the highway as compared to the approved residence at the K & S Ranch. In fact, despite its distance from the highway, the Boling house helps to provide a benchmark for understanding the potential for adverse impact from such large residential development within this critical viewshed area. The most prominent structure visible from within the Park is the Año Nuevo visitors center itself. The visitor's center approximates a large agricultural barn and is compatible with the overall Park ethic. Given the size and scale of the proposed structures and the fact that there are few existing buildings in the area, the Commission finds that the project as approved by the County raises a substantial issue with respect to conformance of the approved project with the LUP Policy 8.20.

**2.7.2 Conclusion**

The Commission finds that, as discussed above, the appeal raises a substantial issue with respect to conformance of the approved project with the visual and scenic resource policies of the San Mateo County certified LCP.

## PART 2 - DE NOVO ACTION ON APPEAL

### PROCEDURE

If the Commission finds that a locally approved coastal development permit raises a Substantial Issue with respect to the policies of the certified LCP, the local government's approval no longer governs, and the Commission must consider the merits of the project with the LCP de novo. The Commission may approve, approve with conditions (including conditions different than those imposed by the County), or deny the application.

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### 3.0 STAFF RECOMMENDATION

The staff recommends conditional approval of Coastal Development Permit Application Number A-2-SMC-00-028.

#### Motion

*I move that the Commission approve Coastal Development Permit Application No. A-2-SMC-00-028 pursuant to the staff recommendation.*

#### Staff Recommendation of Approval

Staff recommends a **YES** vote. Passage of this motion will result in approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

#### Resolution to Grant the Permit

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the policies of the certified San Mateo County LCP. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

### 3.1 Standard Conditions

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a

diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.

3. Interpretation. Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### **3.2 Special Conditions**

#### **1. Future Development**

##### ***Deed Restriction***

***Prior to issuance of the coastal development permit***, the applicant shall execute and record a deed restriction, subject to the review and approval of the Executive Director, stating that the permit is only for the development herein described in the coastal development permit and that on APN 089-221-090 any future additions or other development, as defined in San Mateo County Zoning Code Section 6328.3(h), including construction of fences, gates, additions, or outbuildings, that might otherwise be exempt under Zoning Code Section 6328.5, will require an amendment to this permit or will require an additional coastal development permit from San Mateo County.

The deed restriction shall include a legal description of the applicant's entire parcel. This document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

#### **2. Visual Resources**

##### ***A. Submittal of Revised Plans***

***Prior to issuance of the coastal development permit***, the applicant shall submit, for the Executive Director's review and approval, revised plans that incorporate the following specifications.

- (1) Building Plans. The roofline of the main residence shall be a maximum of 30 feet, five inches high as measured from the finished grade, and as shown on plans for the Revised Living Barn and Pool House, North and South Exterior Elevations, dated September 8, 2000 (Figure 4). No other portion of the residence, except the chimney at 32 feet, six inches, shall be higher than the roofline at 30 feet, five inches high. Plans shall be accompanied by a written explanation of how the height was lowered from the county-approved project.
- (2) Berming Plans. The plan shall include construction of two seven to 12-foot high berms in the locations shown on Figure 5. The berms shall be the minimum height necessary to

screen the house from views from the Highway 1 and the Cascade Trail and dunes at Año Nuevo, and shall be designed to appear part of the existing topography. The first berm (Berm 1) will include a 20-foot by 60-foot earth-covered storage area to reduce the amount of fill necessary. To reduce the fill in the second berm (Berm 4), three 20,000 gallon water tanks will be placed inside it.

- (3) Landscaping. The landscaping plan shall be prepared by a qualified professional with expertise in the field of landscaping with native plants, such as a landscape architect. The plan shall provide the following:
- (a) Native, evergreen, drought-tolerant scrub vegetation, such as coyote brush, shall be planted on the top of the berms, to ensure 100 percent screening of the residence from Highway 1, the Casacade Trail, and Año Nuevo, within five years of approval of this permit. In addition, native, evergreen, drought-tolerant trees, such as Douglas fir, shall be used to provide 100 percent screening during construction, but not relied on to hide any portion of the residence in the long-term. Trees used as screening shall be compatible with the surrounding vegetation and suitable to the climate, soil, and ecological characteristics of the area. Trees shall be no less than five feet high when planted, must be spaced no farther than 20 feet from each other, must be of a type that maintains their lower branch structure through maturity, and must reach a mature height of at least 20 feet. The plan shall specify plant species and mature heights of all trees and shrubs.
  - (b) Further, the plan shall include a shrub/tree maintenance program (e.g., pruning, fertilizing, watering, etc.) for newly planted shrubs and trees and a shrub/tree replacement program on a one-to-one or greater ratio for the life of the project. The plan shall provide that any pruning or tree trimming will maintain the lower branch structure of the trees. The new trees and shrubs shall be planted within 60 days of completion of the project. The applicant shall notify the Executive Director in writing when the trees and shrubs have been planted, and Commission staff shall verify the planting via a site visit or by examining photographs submitted by the applicant. Any shrubs or trees that die or become too thin to provide screening, shall be promptly replaced.
  - (c) The plan shall also indicate the location of all existing trees and shrubs on the property that will serve as landscape screening for the proposed structures and that shall remain undisturbed. Except as provided for in the approved landscaping plan, and any vegetation that must be removed for fire safety as required by the California Department of Forestry and Fire Protection no existing vegetation on the site outside the building envelope or driveway shall be removed. Any existing trees or vegetation providing screening that do not survive must be replaced on a one-to-one or higher ratio for the life of the project. Any future removal of trees shall require a new coastal permit or an amendment to Coastal Permit No. A-2-SMC-00-028.
  - (d) The site shall be monitored for the first five years following planting, and a monitoring report shall be submitted by November 1 of each year for the review and approval of the Executive Director of the Coastal Commission. The monitoring report will document the health of the planted and existing trees and recommend any needed corrective actions to achieve compliance with the requirements of this condition.

Photographs shall be included in the monitoring report and shall be taken each year from the same four view corridor locations as shown on Figure 6, and listed below:

- View corridor 1: Cascade Ranch Drive at Highway 1, 3,200 feet from site.
  - View corridor 2: Cascade Ranch Trail, 0.9 miles from site.
  - View corridor 3: Cascade Trail at Coast, 1.25 miles from site.
  - View corridor 4: Año Nuevo dunes, 2.2 miles from site.
- (e) The monitoring report shall indicate how the photographs were taken from the same exact location, using markers that will last throughout the monitoring period or some other method. The photographs should be taken using an 85 mm lens and a 460 mm lens.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

***Deed Restriction***

***Prior to issuance of the coastal development permit***, the applicant shall execute and record a deed restriction, subject to the review and approval of the Executive Director, stating that all landscaping shall be designed to screen 100 percent of structures from the view of Cabrillo Highway and Año Nuevo State Reserve. Any trees or vegetation providing screening, which do not survive, shall be replaced on a one-to-one or higher ratio for the life of the project. All exterior siding of the proposed structures shall be composed of natural or natural appearing materials, and all siding and roofing of the proposed structures shall be composed of materials of dark earthtone colors only. The applicant shall submit color and material samples for approval by the Executive Director prior to the issuance of the coastal development permit. All exterior materials, including roofs and windows, shall be non-reflective to minimize glare. Exterior lighting shall be unobtrusive, and limited to the minimum necessary for safety, shall be low wattage, non-reflective, shielded, and have a directional cast downward. All lighting, exterior and interior, must be placed, designed and shielded so that only the intended area is illuminated and off-site glare is fully controlled. Screening, fixture selection, and placement shall be such that no fixed direct light sources will be noticed by motorists on Highway 1. Any light sources not in compliance with this performance standard shall be immediately removed. All utility service lines shall be placed underground.

The deed restriction shall include a legal description of the applicant's entire parcel. This document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**3. Special Status Species**

- A. Grading shall be conducted between August 1 and November 1 to avoid impacts to San Francisco garter snakes and sensitive bird species that nest at the site. If this construction schedule is not practical due to other construction activities, grading may be done between May 1 and August 1 if the following recommended bird surveys are implemented:
  - (1) A qualified biologist shall survey the coastal scrub habitat within 0.25 miles of each work area to determine if loggerhead shrike are nesting in the scrub habitat. The surveys shall be conducted within 30 days prior to construction and shall be submitted for the review and approval of the Executive Director. If active nests are found, postpone grading work until all young have fledged.
  - (2) A qualified biologist shall survey the mixed evergreen forest and oak woodland habitats within 0.25 miles of each work area to determine if raptors (e.g. red-tailed hawk, Coopers hawk, sharp-shinned hawk) are nesting. The surveys shall be conducted within 30 days prior to construction and shall be submitted for review and approval of the Executive Director. If active nests are found, grading work shall be postponed until all young have fledged.
- B. A qualified biologist shall conduct pre-construction surveys for the California red-legged frogs and San Francisco garter snakes at least two days prior to the beginning of site grading work. Said survey shall be submitted to the Executive Director for review and approval prior to any grading work. If frogs or snakes are present in the work areas, construction work shall be postponed until they leave the area.
- C. Prior to construction at all sites, place a barrier fence (e.g. silt fence) around grassland and fallow agricultural fields in the construction areas to prevent pond turtles from entering the construction work areas to nest. The fence should be in place prior to the month of June, the beginning of pond turtle nesting season. The bottom six inches of the fence should be buried in a shallow trench to prevent pond turtles from going under the fence.

**4. Erosion and Polluted Runoff Control Plan**

- A. ***Prior to issuance of the coastal development permit***, the applicant shall submit, for review and approval of the Executive Director, plans for erosion and runoff control that show how the transport and discharge of pollutants from the project site will be minimized. The goal is to prevent sediment and other pollutants from entering local drainage systems and water bodies, and protect all exposed earth surfaces from erosive forces. Said plan shall adhere to the San Mateo County Wide Stormwater Pollution Prevention Program “General Construction and Site Guidelines,” and brochures for Earth Moving Activities, Roadwork and Paving, Heavy Equipment Operation, Landscaping, Gardening and Pool Maintenance, and Fresh Concrete and Mortar Application, including, but not limited to:
  - (1) A narrative report describing all temporary runoff and erosion control measures to be used during construction and all permanent erosion control measures to be installed for permanent erosion control.
  - (2) A site plan showing the location of all temporary erosion control measures.

- (3) A schedule for installation and removal of the temporary erosion control measures.
- B. The erosion control plan shall demonstrate that during construction, erosion on the site shall be controlled to avoid entering the unnamed drainage in Deluca Valley. The following temporary erosion control measures and best management practices (BMPs) shall be used during construction:
  - (1) Time the clearing and grading activities to avoid the rainy season wherever appropriate.
  - (2) Clear only areas essential for construction.
  - (3) Provide runoff conveyance systems for transport of runoff during the construction phase to appropriately sited sediment-capturing devices, such as silt fences. Sediment-capturing devices such as sediment traps must be cleaned out when 50% full (by volume).
  - (4) Remove spoils promptly, and avoid stockpiling of fill materials when rain is forecast. If rain threatens, stockpiled soils and other materials shall be covered with a tarp or other waterproof material.
  - (5) Store, handle, and dispose of construction materials and wastes so as to avoid their entry to a local storm drain system or water body.
  - (6) Avoid cleaning, fueling or maintaining vehicles on-site, except in an area designated to contain and treat runoff. This area should not be within 50 feet of any riparian area, such as the unnamed drainage in Deluca Valley, or any wetland area.
  - (7) Construction vehicles shall use the fire road to access the residential building site to avoid creek crossings and reduce the amount of time they spend on the other access road that runs along the unnamed drainage in Deluca Valley.
- C. The runoff control plan shall demonstrate that runoff from the project shall be prevented from entering the unnamed drainage in Deluca Valley or any other riparian or wetland area. The plan shall detail specific measures to reduce runoff such as vegetative buffers, grassy swales, and pop-up drainage emitters. For the life of the project, runoff from all roofs, decks, and other impervious surfaces and slopes on the site shall be collected and discharged to avoid ponding or erosion either on or off the site. Splashguards shall be installed at the base of all downspouts. All post-construction structural BMP (or suites of BMPs) should be designed to treat, infiltrate or filter stormwater from each runoff event, up to and including the 85th percentile, 24-hour runoff event for volume-based BMPs, or the 85th percentile, 1-hour runoff event, with an appropriate safety factor, for flow-based BMPs. The plan shall include a site plan showing finished grades and drainage improvements.
- D. The applicant shall submit a drainage and manure management plan for the proposed stable, detailing specific measures to prevent runoff from the horse stall, outdoor arena, and manure storage areas for review and approval by the Executive Director. The drainage plan shall demonstrate that the surface area of all corrals and paddocks are well drained to prevent the accumulation of storm or casual waters. Waste liquids, including

manure, wash water, and surface runoff from manured areas, must be diverted to retention facilities and effectively contained for later removal. Storage/retention facilities for waste liquids must be sized to provide a minimum of two feet freeboard beyond containing facility wastewater and runoff generated by the 25-year, 24-hour frequency storm. The manure management plan shall indicate daily cleaning and periodic spraying of stable and corral areas, thorough cleaning of corrals no less than once a week, storage of manure in a fly tight, metal or reinforced concrete manure bin, and the proper disposal of collected manure.

- E. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**5. Grading**

- A. *Prior to issuance of the coastal development permit*, the applicant shall submit a final proposed grading plan for review and approval by the Executive Director. Said plan shall conform to the requirements of the San Mateo County Grading Ordinance, and shall incorporate the recommendations to protect special status species under special condition 3, above.
- B. The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plans shall be reported to the Executive Director. No changes to the approved final plans shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**6. Helicopter or Other Aircraft**

***Deed Restriction***

*Prior to issuance of the coastal development permit*, the applicant shall execute and record a deed restriction, subject to the review and approval of the Executive Director, and consistent with the applicant's amended project description (Exhibit 4), that states that there will be no use of helicopters or other aircraft on the property for the life of the development approved by the coastal development permit.

The deed restriction shall include a legal description of the applicant's entire parcel. The deed restriction document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal commission-approved amendment to the coastal development permit unless the Executive Director determines that no amendment is legally required.

**3.3 Findings and Declarations**

The Commission hereby incorporates by reference the Substantial Issue Findings above as if set forth in full. The Commission hereby finds and declares as follows:



### **3.4 Project Location and Revised Description**

As noted in the Project Location and Site Description section of the Substantial Issue portion of this report (which is hereby incorporated by reference), the project site is located inland of Highway 1, in an unincorporated area of San Mateo County near the top of a southwest-facing hill overlooking Año Nuevo State Reserve.

Since the project was initially approved by San Mateo County and appealed to the Commission, the applicant has made changes to the project. The proposed project consists of construction of a three-story, single-family residence, equipment barn, horse stable, farm labor housing, and other improvements. The applicant was advised through the appeal notice and during meetings with Coastal Commission staff that one of the primary objectives in making the project consistent with the LCP would be to site it in the least visible location on the 261-acre parcel. In response to this and other scenic resources policies the applicant revised his proposed project and provided additional information on the constraints analysis. The applicant proposes to lower the height of the residence by four feet eight inches as compared to the project approved by San Mateo County (Figure 4). In addition, the applicant proposes berms to screen the house with minimal reliance on vegetation for screening. Initially, the applicant proposed four berms ranging in height from 15 feet to 25 feet, to fully screen the house, without relying on vegetation for screening. Because of the amount of grading and landform alteration berms of this size would require, the applicant proposed a revised berming plan. The revised plan combined the four berms so that there would be two berms ranging from seven feet to twelve feet (Figure 5). The first berm (Berm 1) will include a 20-foot by 60-foot earth-covered storage area to reduce the amount of fill necessary. To reduce the fill in the second berm (Berm 4), three 20,000 gallon water tanks will be placed inside it. The latter berming plan is the proposed plan considered in this de novo review. In addition to the changes related to visual impacts, the applicant also amended his project description to indicate that there will be no use of helicopters or other aircraft on the property for the life of the development approved by the coastal development permit (Blank 2000).

### **3.5 Visual Resources**

**Based on the updated constraints analysis and visual assessment, the Commission finds that the proposed development conforms to the LCP policies concerning the protection of the scenic qualities of the hills visible from a scenic highway and public viewpoints.**

#### **3.5.1 Issue Summary**

There are three primary reasons why the Commission finds that the proposed development, which would be visible from Highway 1 and Año Nuevo State Reserve, has been designed and conditioned so that it is consistent with LCP visual resources policies 8.5, 8.18, and 8.20:

- **The development is sited in the least visible location, based on a detailed constraints analysis and visual assessment of the entire parcel;**
- **The development is sited and conditioned to be as unobtrusive as possible; and**
- **The development relates in size and shape to adjacent buildings or landforms.**

### **3.5.2 Standard of Review**

The proposed project is within the California coastal zone of San Mateo County, and the County has a certified Local Coastal Program (LCP). Section 30604(b) of the Coastal Act states that after certification of an LCP, a coastal development permit shall be issued if the issuing agency or the Commission on appeal finds that the proposed development is in conformity with the certified LCP. Accordingly, the standard of review for the proposed project is the San Mateo County LCP.

As redesigned, the proposed development is consistent with LUP Policies 8.5, 8.18, and 8.20. Policy 8.5 states that new development should be located where it is least visible from State and County Scenic Roads, is least likely to significantly impact views from public viewpoints, and is consistent with all other LCP requirements, but preserves the visual and open space qualities overall. Policy 8.18 requires that development be as unobtrusive as possible and the visibility from scenic roads and other viewpoints shall be minimized. Policy 8.20 requires development to be related in size and scale to adjacent buildings and landforms. The applicable full text of these LCP policies is contained in Section 2.7.1 of this report.

### **3.5.3 Discussion**

#### ***Constraints Analysis and Visual Assessment***

To develop a site plan for the residence and other structures, the applicant conducted a constraints analysis and visual assessment of the entire property. This analysis was refined during the LCP application process and considered by the County. It was further updated for the Commission. The analysis and assessment address LUP Policy 8.5, which requires that the development be sited in the least visible location. This constraints analysis and visual assessment is described in Exhibit 5 (Wade 2000) and is summarized herein.

The constraints analysis and visual assessment included four phases:

- Phase 1: Constraints Analysis and Mapping.
- Phase 2: Site Selection
- Phase 3: Visual Analysis
- Phase 4: Visual Protection

In Phase 1, the applicant analyzed constraints related to scenic corridors, prime soils, sensitive habitats, geologic stability, and slopes. These constraints are presented on maps. Map 1 of Exhibit 5 shows the areas visible from public roads and trails (Highway 1, Cascade Creek Trail, Cascade Creek-Whitehouse Trail, and Año Nuevo trails). Initially they looked at land that would be visible at ground level. Then, in response to discussions with Commission staff, they

considered areas where a 12-foot high object would be seen, simulating a structure that might be built on the property. The resulting map demonstrates that much of the property would be seen from public roads and trails.

The prime soils map (Map 2 of Exhibit 5) shows the Lockwood soils and Botella loam, which are Class II and III (capable of growing artichokes or brussel sprouts) (US Department of Agriculture 1961). Only buildings necessary for agriculture are allowed in prime soils. On the property, sensitive habitats, as defined in LCP Policy 7.1, include those that contain or support rare or endangered species, perennial and intermittent streams and their tributaries, and lakes and ponds and adjacent shore habitat. Map 3 of Exhibit 5 shows the location of creeks and ponds and riparian habitat, which are considered sensitive habitats because of the functions and values they provide, including providing habitat for sensitive species found in the area, such as San Francisco garter snake, red-legged frogs, and pond turtles. The Geologic Stability map (Map 4 of Exhibit 5) shows geologic hazard zones, ranging from low to high, based primarily on the location of faults and landslides. Exhibit 6 explains the rationale in greater detail (Zinn 2000b). The slopes map (Map 5 of Exhibit 5) shows that approximately 28 percent of the property, or 74.25 acres, has slopes over 30 percent. Overlaying all the constraints maps together, only six areas remained that would provide building sites (Map 6 of Exhibit 5).

The six remaining building sites were examined in greater detail in Phase 2. The potential sites were eliminated, except for Site D for the horse barn and Site E for the house, because they were too small, too steep, higher geologic risk, or inaccessible (see Exhibit 5). To minimize visual impacts, the house was placed in the farthest northeast corner of the building site where it would be screened to the maximum extent by the broad coastal terrace in front and the forest behind. The house would be placed near the edge of the slope on the northeast side of the coastal terrace, as close to the edge as was recommended by the geologic consultants (Zinn Geology). Further east would have put the house too close to the San Gregorio fault, in the opinion of the applicant's geologist (Zinn 2000b).

Once the house site was chosen, the applicant conducted a visual analysis (Phase 3) with the aid of a 34-foot story pole. This analysis revealed four public locations from which the house could be seen, as shown on Figure 6 and described below:

- View corridor 1: Cascade Ranch Drive at Highway 1, 3,200 feet from site;
- View corridor 2: Cascade Ranch Trail, 0.9 miles from site;
- View corridor 3: Cascade Trail at Coast, 1.25 miles from site; and
- View corridor 4: Año Nuevo dunes, 2.2 miles from site.

In Phase 4, the applicant developed methods to screen the portion of the house that would be visible from the view corridors identified in Phase 3. For the county-approved project, the applicant proposed to plant 67 trees that were 10 to 16 feet tall (24 to 36-inch boxes), and to install an irrigation system. In addition, he proposed four-foot high berms behind the planted trees and 33 additional trees to be planted on top of the berms. However, four-foot berms, which were included in the county-approved project, would only partially hide the residential structures.

The revised plan presented to the Commission includes revisions to the berms, the design of the house, and the landscaping. First, the revised plans combine the four berms so that there would be two berms ranging from seven feet to twelve feet. The first berm (Berm 1) would include a 20-foot by 60-foot earth-covered storage area to reduce the amount of fill necessary. To reduce the fill in the second berm (Berm 4), three 20,000-gallon water tanks will be placed inside it. Secondly, the roofline would be four feet, eight inches lower than on the county-approved house. Figures 7 through 14 show that approximately five feet of the roof would be visible with the berms alone. To completely screen the house, shrubs that reach at least four feet at maturity would be planted on top of the berm to completely screen the house. Trees would also be planted to further screen the house.

In conclusion, the applicant has demonstrated that he did a thorough analysis of the entire 261-acre parcel to determine the least visible location for siting the house. Other sites are constrained by greater visibility, prime soils, sensitive habitats, geologic hazards, steep slopes, and access difficulties.

#### ***Consistency with LCP Policies Regarding Visual Resources***

As discussed in Section 2.7.1, the proposed development would be visible from Highway 1 and trails in Año Nuevo State Reserve. Based on the constraints analysis, site selection, and visual assessment described above, the project would be consistent with LCP policy 8.5, which mandates that development shall be located on the portion of the property that is least visible. The residence is designed to emulate barns and other small structures typical of the rural farming structures that typify the character of the area. The house would be placed as far back on the coastal terrace as feasible to so that even if it were visible from public places it would be as unobtrusive as possible. Other structures would be located where they would not be seen from public viewpoints. Colors of the residence would be earth tones, dark gray walls and a dark brown roof. Therefore, the proposed development would be consistent with Policy 8.18. Because the development is designed to look similar to other rural developments in the area, and would be mostly hidden by the proposed berms, with minimal screening by scrub vegetation, it would be consistent with Policy 8.18 and 8.20.

Special condition 2 addresses potential impacts to visual resources. To ensure that no portion of the house will be higher than was proposed and to make clear how the height reduction of four feet five inches is to be achieved, condition 2A requires submittal of building plans. Berming plans are also required in condition 2B. Condition 2C specifies requirements for the types of vegetation to be used in landscaping plans for screening purposes, including existing vegetation. Monitoring required in condition 2C(d) will ensure that the residence is fully screened at the end of five years. A deed restriction is placed on the house to be sure that special conditions

associated with reducing visual impacts are recorded on the deed for the present and future owners to comply with. Special conditions 2C(c) and 2C(d), which address existing vegetation and monitoring of screening vegetation, and the deed restriction, are additional condition not proposed by the applicant, that are necessary to ensure the project is in conformance with the LCP and remains in conformance.

The sum effect of these conditions will be to ensure that the proposed structures are reduced in height and screened by berms and vegetation, and that such screening will be maintained for the life of the project.

### **3.5.4 Conclusion**

In conclusion, the Commission finds that, as conditioned, the proposed development is consistent with the visual and scenic resource policies of the LCP as the project has been sited and designed to minimize visual impacts, will be subordinate to the character of its setting, and will provide for the protection of coastal views.

### **3.6 Sensitive Species**

**The Commission approves the permit application because the proposed project, as conditioned, protects sensitive species.**

#### **3.6.1 Issue Summary**

To prevent any impacts to these species, including San Francisco garter snake, California red-legged frog, western pond turtle, and loggerhead shrike, conditions include avoidance measures, biological surveys, and barrier fencing.

#### **3.6.2 Standard of Review**

LCP policies discussed in this section are cited below:

##### *7.34 Permit Conditions*

*In addition to the conditions set forth in Policy 7.5, require, prior to permit issuance, that a qualified biologist prepare a report which defines the requirements of rare and endangered organisms. At minimum, require the report to discuss: (1) animal food, water, nesting or denning sites and reproduction, predation and migration requirements, (2) plants life histories and soils, climate and geographic requirements, (3) a map depicting the locations of plants or animals and/or their habitats, (4) any development must not impact the functional capacity of the habitat, and (5) recommend mitigation if development is permitted within or adjacent to identified habitats.*

##### *7.36 San Francisco Garter Snake*

- a. Prevent any development where there is known to be a riparian or wetland location for the San Francisco garter snake with the following exceptions: (1) existing manmade impoundments smaller than one-half acre in surface, and (2) existing manmade impoundments greater than one-half acre in surface providing mitigation measures are taken to prevent disruption of no more than one half of the snake's*

*known habitat in that location in accordance with recommendations from the State Department of Fish and Game.*

- b. Require developers to make sufficiently detailed analyses of any construction which could impair the potential or existing migration routes of the San Francisco garter snake. Such analyses will determine appropriate mitigation measures to be taken to provide for appropriate migration corridors.*

LCP policies 7.34 and 7.36 require that a qualified biologist prepare a report that discusses the natural and physical requirements of all endangered species on the property. LCP policy 7.36 specifically addresses San Francisco garter snake.

LCP policies 7.7 through 7.13 address riparian corridors and their buffer zones and LCP policies 7.14 through 7.19 discuss wetlands and their buffer zones. The existing (and proposed) farm labor housing is approximately 100 feet from the riparian area. The proposed stable is approximately 400 feet north of the riparian area. The proposed residence is on a hill approximately 325 feet above the riparian area. Because no work is proposed in these habitats, the policies are not discussed further. Any future work in these areas would require a separate coastal development permit.

### **3.6.3 Discussion**

The biological report for the project identified the following direct impact impacts to the special status wildlife species: 1) injury to California red-legged frogs and San Francisco garter snakes by construction equipment, if they are present during grading; and 2) abandonment of loggerhead shrike nests due to noise and dust (Biotic Resources Group and Dana Bland & Associates 2000). Potential indirect impacts include potential disturbance to nesting raptors in the mixed evergreen from noise and dust (Biotic Resources Group and Dana Bland & Associates 2000).

Special Condition 3 is written to avoid impacts to special status species. The San Francisco garter snake is active between May 1 and November 1. Therefore, grading should be conducted during this active time to prevent harm to hibernating snakes. The nesting period for sensitive bird species is approximately February 1 through August 1, during which time no grading should be done. This means that grading shall be done between August 1 and November 1, to protect both types of species. To provide additional time for grading, if necessary, additional conditions are included that would allow grading between May 1 and August 1 provided that surveys are conducted prior to construction. Because of the endangered status of the San Francisco garter snake, the elusiveness of the species, and that the species has been observed in habitat nearby, no flexibility in the grading is allowed between November 1 and May 1. In addition, two days prior to grading, surveys shall be conducted for San Francisco garter snake as well as California red-legged frogs to ensure that they are not harmed during grading activities. To prevent pond turtles from entering construction areas and being harmed, a barrier fence shall be placed around the construction areas. These conditions are necessary to avoid impacts to special status species.

### **3.6.4 Conclusion**

In conclusion, the Commission finds that, as conditioned, the proposed development is consistent with the sensitive species policies of the LCP. The project is sited where impacts are minimized, that is, no riparian habitat or wetlands will be directly impacted, and special status species are protected through avoidance measures, biological surveys, and barrier fencing.

### 3.7 Water Quality/Polluted Runoff

**The Commission approves the permit application because the proposed project, as conditioned, protects sensitive habitats from water quality impacts associated with erosion and runoff and therefore maintains the biologic productivity of habitats.**

#### 3.7.1 Issue Summary

Development is proposed 100 to 400 feet from a riparian corridor. Conditions to protect water quality in the tributary and open water areas address runoff and erosion control to ensure that the sensitive habitat of the unnamed drainage in Deluca Valley is not adversely affected.

#### 3.7.2 Standard of Review

The standard of review is LCP policy 7.3, which states:

*7.3 Protection of Sensitive Habitats*

- a. Prohibit any land use or development which would have significant adverse impact on sensitive habitat areas.*
- b. Development in areas adjacent to sensitive habitats shall be sited and designed to prevent impacts that could significantly degrade the sensitive habitats. All uses shall be compatible with the maintenance of biologic productivity of the habitats.*

Runoff from construction areas and developed areas may contain sediment and pollutants that may adversely affect water quality in sensitive habitats.

#### 3.7.3 Discussion

An unnamed tributary to Cascade Creek crosses the site from east to west in Deluca Valley. Two man-made ponds are connected to this tributary. The riparian habitat and open water/freshwater wetlands of the tributary and ponds provides habitat for a diversity of plant and wildlife species, including special status species, as discussed in Section 3.6 above. The existing access road runs along the north side of the tributary. The existing (and proposed) farm labor housing is approximately 100 feet from the tributary. The proposed stable is approximately 400 feet north of the tributary. The proposed residence is on a hill approximately 325 feet above the tributary.

Due to the proximity of the development to the riparian corridor, water quality may be adversely affected. For instance, during grading and construction, bare soils could erode and sediment could be transported into the riparian area. The residence, other structures, and paved areas may increase local runoff due to the creation of impervious areas. This runoff could carry with it pollutants such as suspended solids, oil and grease, nutrients, and synthetic organic chemicals. An increase in the volume and/or velocity of water in the riparian area or an increase in sediment entering the area may decrease the riparian vegetation bordering the tributary. This decrease in riparian vegetation could result in changes, such as an increase in water temperature, which would adversely affect aquatic organisms in the creek. Pollutants would also adversely affect aquatic organisms. Animal wastes, such as from the proposed stables, could lead to an increase in nutrients in the riparian system and eutrophication. All of these impacts may adversely affect the biological productivity of the riparian area.

The conditions are designed to ensure that the proposed project complies with LCP Policy 7.3 by reducing erosion and associated sediment loads, and reducing the amount of pollutants that enter sensitive habitats, such as riparian corridors and wetlands on the property. These conditions would therefore allow the proposed uses to be compatible with the maintenance of biologic productivity of the habitats. Condition 4A requires the applicant to submit plans for erosion control and runoff that show how the transport and discharge of pollutants from the site will be minimized, thereby reducing potential effects to biologic productivity. BMPs required by special condition 4B reduce the potential for pollutants, such as oil and grease from construction vehicles, to enter the unnamed drainage in Deluca Valley. The volume of runoff entering the drainage is minimized through condition 4C. The manure management plan reduces the potential for degradation of water quality from animal wastes.

### **3.7.4 Conclusion**

The Commission finds that, as conditioned, the proposed development is consistent with the sensitive habitat policy of the LCP through which water quality is protected. As conditioned, impacts associated with erosion and runoff have been minimized.

## **3.8 California Environmental Quality Act (CEQA)**

Section 13096 of the California Code of Regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available that would substantially lessen any significant adverse effects that the activity may have on the environment.

The Commission incorporates its preceding findings on consistency of the proposed project with the San Mateo County LCP policies at this point as if set forth in full. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impacts that the development may have on the environment. Therefore, the Commission finds that the proposed project has been conditioned to mitigate the identified impacts and can be found consistent with Coastal Act requirements to conform to CEQA.



## **Appendix A**

### **Substantive File Documents**

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